

1
2
3
4
5

6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE NORTHERN DISTRICT OF CALIFORNIA

8
9 UNITED STATES OF AMERICA
10 Plaintiff,
11 v.
12 KWOK CHEUNG CHOW,
13 Defendant.

Case No. CR 14-0196 CRB

**ORDER DENYING MOTION FOR
COMPASSIONATE RELEASE**

14 Defendant Kwok Cheung Chow has moved for compassionate release under 18
15 U.S.C. § 3582. See generally Mot. (dkt. 2233). Because Chow has not satisfied the
16 requirements of the applicable Sentencing Commission policy statement, his motion for
17 compassionate release is denied. There is no need for oral argument on this matter.

18 A reduction in sentence under section 3582(c) must be “consistent with applicable
19 policy statements issued by the Sentencing Commission.” 18 U.S.C. § 3582(c)(1)(A); see
20 also Dillon v. United States, 560 U.S. 817, 819 (2010) (holding that the Sentencing
21 Commission policy statement applicable to 18 U.S.C. § 3582(c)(2) remains mandatory,
22 even after United States v. Booker, 543 U.S. 220 (2005)). The applicable Sentencing
23 Commission policy statement, U.S.S.G. § 1B1.13, directs that a court may only grant
24 compassionate release if it determines that “[t]he defendant is not a danger to the safety of
25 any other person or to the community, as provided in 18 U.S.C. § 3142(g).”
26 Section 3142(g) sets out four factors for determining dangerousness: (1) “the nature and
27 circumstances of the offense charged,” (2) “the weight of the evidence against the person,”
28 (3) the history and characteristics of the person,” and (4) “the nature and seriousness of the

1 danger to any person or the community that would be posed by the person's release."

2 Following a lengthy trial, see Jury Trial (dkt. 1120) (trial began 11/9/2015); Jury
3 Trial (dkt. 1284) (trial ended 1/8/2016), a jury convicted Chow of conspiracy to conduct
4 the affairs of an enterprise through a pattern of racketeering activity, murder in aid of
5 racketeering, conspiracy to commit murder in aid of racketeering, money laundering, and
6 conspiracy, see Special Verdict Form (dkt. 1256) (recording guilty verdicts); Judgment
7 (dkt. 1536) (adjudicating Chow guilty on all 162 counts). At Chow's sentencing, the Court
8 observed that "[t]he murder in this case that requires the life sentence was particularly
9 callous, because it was the removal of an obstacle to [Chow's] ascension to power." See
10 Transcript of 8/4/2016 (dkt. 1590) at 75. The evidence against Chow was overwhelming
11 and included the testimony of an undercover agent who had infiltrated Chow's inner circle.
12 See USCA Order (dkt. 2315) at 2 (discussing Chow's objection to the Court's having
13 withheld agents' identities). At sentencing, the Court noted that the trial had included "a
14 parade of witnesses" who testified against Chow, who had been "brought in by [Chow],
15 influenced by [Chow], directed by [Chow] and corrupted by [Chow]," which was
16 "extraordinarily dangerous." See Transcript of 8/4/2016 at 74–75. Chow committed these
17 crimes after a lifetime of committing other, often violent crimes. See, e.g., USCA Order at
18 4 (noting that "[p]ursuant to a plea agreement in a prior criminal case, Chow admitted that
19 he was involved in ordering several murders."). The nature and seriousness of the danger
20 that Chow would pose to the community if released is significant—Chow has
21 demonstrated that he will hurt others to obtain and maintain power.

22 The Court therefore cannot conclude that "[t]he defendant is not a danger to the
23 safety of any other person or to the community, as provided in 18 U.S.C. § 3142(g)." See
24 U.S.S.G. § 1B1.13.

25 //

26 //

27 //

28 //

United States District Court
Northern District of California

1 Accordingly, Chow's motion for compassionate release is denied.¹
2

IT IS SO ORDERED.

3 Dated: August 27, 2020
4



CHARLES R. BREYER
United States District Judge

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

¹A court evaluating a motion under section 3582 must also consider the sentencing factors from 18 U.S.C. § 3553(a), “to the extent that they are applicable.” 18 U.S.C. § 3582(c)(1)(A)(i). Chow has been in custody since 2014, see Mot. at 2, which is far short of a life sentence. Given the seriousness of Chow’s conduct and the need to promote specific and general deterrence, granting Chow’s motion would be inconsistent with the applicable sentencing factors.